

BUCKLEYSANDLER LLP
RICHARD E. GOTTLIEB (State Bar No. 289370)
rgottlieb@buckleysandler.com
FREDRICK S. LEVIN (State Bar No. 187603)
flevin@buckleysandler.com
100 Wilshire Boulevard, Suite 1000
Santa Monica, CA 90401
Phone: (310) 424-3900
Facsimile: (310) 424-3960

Attorneys for Petitioner Desside Holdings Limited

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DESSIDE HOLDINGS LIMITED,

Petitioner,

vs.

MEGAWINE, INC., VADIM L.
TOMCHIN, NATALIA LUKINA,
GRANDPOINT BANK, and CITY
NATIONAL BANK,

Respondents.

Case No. 13-cv-08211-JAK-JCG

**DECLARATION OF FREDRICK S.
LEVIN IN SUPPORT OF *EX PARTE*
APPLICATION FOR AN ORDER
TO SHOW CAUSE WHY VADIM
TOMCHIN AND NATALIA
LUKINA SHOULD NOT BE FOUND
IN CONTEMPT FOR REFUSAL TO
COMPLY WITH SUBPOENAS
SERVED PURSUANT TO THIS
COURT'S ORDER OR, IN THE
ALTERNATIVE, FOR AN ORDER
COMPELLING COMPLIANCE
WITH THE SUBPOENAS
PURSUANT TO FED. R. CIV.P. 37**

[Filed Concurrently Herewith Notice of
Ex Parte and *Ex Parte* Application;
Declarations of Nima Javaherian and
William Umana In Support Thereof; and
[Proposed] Order]

**DECLARATION OF FREDRICK S. LEVIN ISO *EX PARTE* APPLICATION
FOR AN ORDER TO SHOW CAUSE RE: CONTEMPT**

BUCKLEY SANDLER LLP
100 WILSHIRE BLVD., SUITE 1000
SANTA MONICA, CA 90401

1 I, Fredrick S. Levin, declare as follows:

2 1. I am an attorney duly admitted to practice before the courts of the State
3 of California. I am a partner with the law firm BuckleySandler LLP, counsel of
4 record for Petitioner Desside Holdings Limited ("Desside"). I have personal
5 knowledge of the facts stated in this declaration and, if called as a witness, I could
6 and would testify competently to each fact. I submit this declaration in support of
7 Desside's *Ex Parte Application* for An Order to Show Cause Why Vadim Tomchin
8 and Natalia Lukina Should Not Be Found In Contempt For Refusal To Comply With
9 This Court's Order (the "Ex Parte Application").

10 2. In anticipation of obtaining discovery from Megawine, Inc., Tomchin,
11 and Lukina, I drafted a preservation letter that was hand-delivered to each of them
12 on November 20, 2013, informing them that Desside had requested authority to
13 serve them with subpoenas, listing the topics the subpoenas would cover, and
14 notifying them of their document preservation obligations.

15 3. True and correct copies of each of the November 20, 2013 preservation
16 letters, including proof of service are attached as Exhibit A.

17 4. My firm retained First Legal Support Services to serve subpoenas on
18 Tomchin and Lukina.

19 5. True and correct copies of the affidavits from the process server
20 retained by First Legal Support Services, stating that he attempted service on
21 Tomchin and Lukina at 24720 Calvert Street, Woodland Hills, CA 91367 thirteen
22 times, and that the gardeners confirmed that they had not seen the couple in weeks,
23 are attached as Exhibit B.

24 6. A true and correct copy of the subpoena to Tomchin, along with proof
25 of service that it was served on January 13, 2014, is attached as Exhibit C.

26 7. A true and correct copy of the subpoena to Lukina, along with proof of
27 service that it was served on January 13, 2014, is attached as Exhibit D.

BUCKLEY SANDLER LLP
100 WILSHIRE BLVD., SUITE 1000
SANTA MONICA, CA 90401

1 8. A true and correct copy of the email chain between Michael Machat
2 and me, dated January 27, 2014, in which Machat stated that Tomchin is in Europe,
3 that he believes Lukina is with him, and that Machat does not currently represent
4 Tomchin and Lukina, is attached as Exhibit E.

5 9. A true and correct copy of the pages of the transcript of the January 17,
6 2014 deposition of Boris Shats cited in the Ex Parte Application is attached as
7 Exhibit F.

8 10. A true and correct copy of the pages of the transcript of the January 24,
9 2014 deposition of Boris Shats cited in the Ex Parte Application is attached as
10 Exhibit G.

11 11. A true and correct copy of an email chain between Vadim Tomchin and
12 Boris Shats, as produced by Megawine, dated February 26, 2011, is attached as
13 Exhibit H.

14 12. A true and correct copy of a wire confirmation from Desside to
15 Megawine for 750,000 Euro on February 25, 2011, as produced by Megawine, is
16 attached as Exhibit I.

17 13. A true and correct copy of the City National Bank statement for
18 Megawine's account, dated February 28, 2011, as produced by Megawine, is
19 attached as Exhibit J.

20 14. A true and correct copy of the Quickbooks printout of Mozel
21 transactions, as produced by Megawine, is attached as Exhibit K.

22 15. A true and correct copy of the notice of non-appearance for Tomchin
23 for his deposition is attached as Exhibit L.

24 16. On information and belief, the Russian Tribunal hearing the underlying
25 case ruled in Desside's favor on January 23, 2014.

26 17. On information and belief, Mozel has less than two weeks from the date
27 of this Ex Parte Application to appeal the Russian Tribunal's decision.

1 18. On information and belief, the second level courts in Russia accept new
2 evidence.

3 19. On information and belief, the time frame for presenting evidence on
4 appeal in Russia is short.

5 I declare under penalty of perjury under the laws of the United States of
6 America that the foregoing is true and correct. Executed this 27th day of February,
7 2014, at Santa Monica, California.

8 /s/ Fredrick S. Levin
9 Fredrick S. Levin

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
BUCKLEY SANDLER LLP
100 WILSHIRE BLVD., SUITE 1000
SANTA MONICA, CA 90401

CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 100 Wilshire Boulevard, Suite 1000, Santa Monica, California 90401.

On February 27, 2014, I served the following document(s) described as **DECLARATION OF FREDRICK S. LEVIN IN SUPPORT OF EX PARTE APPLICATION FOR AN ORDER TO SHOW CAUSE WHY VADIM TOMCHIN AND NATALIA LUKINA SHOULD NOT BE FOUND IN CONTEMPT FOR REFUSAL TO COMPLY WITH SUBPOENAS SERVED PURSUANT TO THIS COURT'S ORDER OR, IN THE ALTERNATIVE, FOR AN ORDER COMPELLING COMPLIANCE WITH THE SUBPOENAS PURSUANT TO FED. R. CIV.P. 37** on the interested parties in this action as follows:

Michael Machat
Machat and Associates PC
433 North Camden Drive Suite 730
Beverly Hills, CA 90210
Tel: 310-860-1833
Fax: 310-860-1837
Email: Michael@machatlaw.com

BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge, and that I executed this document on February 27, 2014, at Santa Monica, California.

ALMA COLLINS
Printed Name


Signature